

Remarks/Arguments

The Examiner's Office Action mailed July 28, 2004 has been reviewed. In this response, a provisional election is made, with traverse, and pending claim 46 is amended to correct a typographical error.

In the Office Action mailed July 28, 2004, the Examiner stated that:

Restriction to one of the following inventions is required under 25 USC 121:

- I. Claims 1-3, 7-23, and 46-55 drawn to a method of cleaning feathers, classified in class 162, subclass 23.
- II. Claims 56-65, drawn to forming a combined feather and paper material, classified in class 162, subclass 143.

Pursuant to this restriction requirement, Applicant hereby provisionally elects to prosecute the claims of Group I (claims 1-3, 7-23, and 46-55). However, Applicant traverses the Examiner's restriction requirement for the following reasons.

The Examiner imposed a first restriction requirement in this application in an Office Action mailed October 1, 2003. Applicant filed a response on October 30, 2004, including an election to prosecute original claims 1-23 of the application. The Examiner then issued an Office Action on the merits on February 3, 2004. Applicant's response to the February 3, 2004 Office Action was mailed to the USPTO on May 3, 2004.

In the Office Action issued February 3, 2004, all of Applicant's original claims 1-23 were searched. However, as set forth in Applicant's May 3, 2004 response, the prior art located by the Examiner neither disclosed nor suggested several limitations of Applicant's claims, including (a) the addition of a cleaning agent to the feathers during the reducing operation as called for in original claim 5 and (b) the addition of reduced paper material to the reduced feather material to form a combined reduced material as called for in Applicant's

original claim 18. Thus, Applicant amended original claim 1 to include the limitation of original claim 5 and rewrote original claim 18 as new claim 56. New claim 56 also states that the reduced feather material is present in an amount in the range of from about 40 to about 95 weight % and that the reduced paper is present in an amount in the range of from about 5% to about 60 weight %.

Consequently, although the Examiner has already searched and examined Applicant's original claims 5 and 18, the Examiner is now requiring that an election be made between the subject matter of these claims. Concerning the imposition of restriction requirements of this type, MPEP § 811, Time For Making Requirement, provides that:

Before making a restriction requirement after the first Office action on the merits, the examiner will consider whether there will be a serious burden if restriction is not required.

In imposing the present restriction requirement, the Examiner states that:

Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case Group I does not require adding a reduced paper to the reduced feather material as required by Group II and can be 100% feathers. Group II does not require the "simultaneously reducing and cleaning" of Group I and can reduce the feathers without simultaneously cleaning the feathers. The inventions therefore have different modes of operation.

Because these inventions are distinct for the reasons given above and have required a separate status in the art as shown by their different classification restriction for examination purposes as indicated is proper.

Although the Examiner has shown that Groups I and II are technically "distinct,"

Applicant respectfully submits that MPEP § 811 requires significantly more be shown at this stage of prosecution in order to justify the burden, cost, and delay imposed on the Applicant, particularly in light of the fact that the latest restriction requirement involves limitations which

have already been searched. In addition, all of the claims currently pending are classified in class 162. Moreover, the subject matter of the claims is clearly related in the specification and the requirements and limitations of the claims of Group II are also found in claims 18-21, 23, and 51-55 of Group I.

Applicant therefore respectfully submits that this restriction requirement does not satisfy the requirements of MPEP § 811 and requests that the restriction requirement be withdrawn.

Respectfully submitted,

 8/19/04

Dennis D. Brown (Date)  
Registration No. 33,559  
FELLERS, SNIDER, BLANKENSHIP,  
BAILEY & TIPPENS, P.C.  
321 South Boston, Suite 800  
Tulsa, OK 74103-3318  
918/599-0621 (phone)  
918/583-9659 (fax)

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